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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,830	05/22/2001	John Gregory Schroeder	AA471	8865

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/862,830	SCHROEDER ET AL.
	Examiner	Art Unit
	Lorna M. Douyon	1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 May 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3, 5-7, 9, 10, 12-14, 16, 18-20 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3, 5-7, 9, 10, 12-14, 16, 18-20, 22-30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

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1. This action is responsive to the amendment filed on May 21, 2004.
2. Claims 1-3, 5-7, 9-10, 12-14, 16, 18-20, 22, 24, 26, 28-29 stand rejected under 35 U.S.C. 102(b) as being anticipated by Ehrlich (US Patent No. 4,099,912) for the reasons set forth in the previous office action.
3. Claims 23, 25, 27 and 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrlich as applied to the above claims for the reasons set forth in the previous office action.
4. Claims 1, 5, 7, 9, 12-14, 16, 18-20, 22, 24, 26, 28-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al. (US Patent No. 4,563,186), hereinafter “Flynn” for the reasons set forth in the previous office action.
5. Claims 1-3, 5-7, 9-10, 12-14, 16, 18-20, 22, 24, 26, 28-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dea (US Patent No. 3,842,976) for the reasons set forth in the previous office action.
6. Claims 1, 5 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins (US Patent No. 5,490,608) for the reasons set forth in the previous office action.

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7. Claims 1-3, 5-7, 9, 12-14, 16, 18-20, 22, 24 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Riordan (US Patent No. 6,105,812) for the reasons set forth in the previous office action.

Response to Arguments

8. Applicants' arguments filed February 25, 2004 and May 21, 2004 have been fully considered but they are not persuasive.

With respect to the rejection under 35 USC 102 over Ehrlich, Applicants argue that Ehrlich does not teach each and every element of the claimed invention such as a coordinated element as presently claimed which are brand name, container graphics, a dye, a perfume, a trade dress, a set of usage instructions as that recited and a combination thereof. In response to the Examiner's response in the previous office action as to the teachings of Ehrlich in col. 11, lines 54-55 regarding the different compositions being separately packaged for admixture together of premeasured amounts in accordance with manufacturer's instructions so as to obtain the most desired effects under particular operating conditions, Applicant argues that it is the premeasured amounts that are to be in accordance with the manufacturer's instructions.

The Examiner respectfully disagrees with the above arguments because it is clear from the teachings of Ehrlich that different compositions are separately packaged for admixture together of premeasured amounts in accordance with manufacturer's instructions so as to obtain the most desired effects under particular operating conditions. Even though it is the premeasured amounts of the different compositions that have to be admixed in accordance with the manufacturer's instructions, this teaching still satisfies the limitation "a set of usage instructions

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comprising an instruction to use the laundry detergent composition in combination with the fabric treatment composition" as required in the present claims. The other coordinated element aside from manufacturer's instructions to use the separately packaged compositions together, are brand name, container graphics and/or trade dress which are common to all articles of commerce.

With respect to the obviousness rejections based upon Ehrlich, Flynn, and Dea, separately, Applicants argue that each of these references does not teach or suggest a coordinated element as presently claimed, and that the claims include a usage instruction to use the laundry detergent composition in combination with the fabric treatment composition.

The response to Ehrlich above apply here as well.

With respect to Flynn, as already stated above, it is understood that every article of commerce is identified by a brand name. Hence, a dual chambered container as shown in Figure 17 comprising a prespotter and detergent composition would have been identified with a brand name, container graphic and/or a trade dress. With respect to the set of usage instructions, said instructions are taught in col. 1, line 51 to col. 2, line 11.

With respect to Dea, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the laundry kit of Dea which contains detergents, bleach, fabric softener to have a brand name, container graphics and/or trade dress because every article/product of commerce contains a brand name, container graphics and/or trade dress, and to reasonably expect to contain user's instructions, considering the laundry kit contains different compositions.

With respect to the obviousness rejection based upon Hawkins, Applicants argue that the present invention is directed to address the need for a kit for reducing consumer confusion about

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the multitude of fabric care combinations available, while minimizing the possibility of undesirable product interactions and that the “coordinated element” is an essential claim limitation used to describe the present invention that attempts to address this unmet need, and that Hawkins is simply directed to a novel portable container having multiple compartments for receiving, etc., powders and liquids for the care of washable items and no mention is made of the problem, much less the solution, of reducing the confusion of the multitude of fabric care combination available while minimizing the possibility of undesirable product interactions.

The Examiner respectfully disagrees with the above arguments because Hawkins, even though not addressing the problem of reducing confusion of the multitude of fabric care combination while minimizing the possibility of undesirable product interactions, teaches a portable container having multiple compartments for receiving, containing and dispensing powders like powdered detergents and liquids like liquid bleach for the care of washable items and that the user may easily dispense known volumes into the container and may conveniently dispense these substances from the container as taught in col. 1, lines 16-22 and 28-32. Hence, the product of Hawkins read on the present claims.

With respect to the obviousness rejection based upon Riordan, Applicants argue that the present invention is directed to address the need for a kit for reducing consumer confusion about the multitude of fabric care combinations available, while minimizing the possibility of undesirable product interactions and that the “coordinated element” is an essential claim limitation used to describe the present invention that attempts to address this unmet need, and Applicants assert that no such suggestion is found in Riordan.

The Examiner respectfully disagrees with the above arguments because Riordan, even though not addressing the problem of reducing confusion of the multitude of fabric care combination while minimizing the possibility of undesirable product interactions, teaches a dual chamber container which is convenient for combinations of non-comestibles such as household detergents, bleach and fabric softener (see col. 3, lines 39-42), and that the consumer would reasonably dispense these substances with ease when using them together during the laundering process.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Lorna M. Douyon
Primary Examiner
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